IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

****

R.S.A. No.167 of 2001
Date of Decision:17.10.2007

Abdul Rashid and others

.....Appellants

Vs.

Ashgar and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Mr. J.S.Bhatia, Advocate for the appellants.

Mr. Sandeep Vermani, Advocate for respondent No.1.

****

Rajesh Bindal, J.

The plaintiffs are in second appeal before this Court against concurrent finding of fact by both the Courts below where suit filed by them under Order 1 Rule 8 CPC in representative capacity for permanent injunction was dismissed. The claim made in the suit was that the property in question is owned by Punjab Wakf Board and in fact the Central Government did not have any authority to auction the suit property. The appellants are living therein as chowkidars and the respondent No.1/ defendant was trying to interfere in their peaceful possession which necessitated filing of the suit. On the other hand, the claim made by the respondent No.1/ defendant was that he had purchased the property from the Central Government and the mutation to that effect had also been sanctioned on 13.4.1989.

Both the Courts below did not find any material produced on record by the appellants to hold that the property in question belongs to Punjab Wakf Board and, accordingly, the possession of the appellants herein was held to be illegal. It has further been pointed out by learned counsel appearing for the respondent No.1 that because of the confusion created by the appellants, the respondent No.1 filed suit against the Punjab Wakf Board where his claim was accepted and the Punjab Wakf Board was held to be not concerned with the land in any manner whatsoever and even the appeal filed by the Punjab Wakf Board was dismissed.

These facts were put to the counsel for the appellants when the appeal was heard on 27.9.2007. Today learned counsel for the appellants very fairly admitted the factum of the rejection of the claim of Punjab Wakf Board, as suggested by counsel for the respondent No.1 to be correct. Once admittedly, it is found that the Punjab Wakf Board is not owner of the property and further the appellants had not been able to produce any evidence to show that the place in question is a kabristan, I do not find any illegality has been committed by both the Courts below in dismissing the suit of the appellants- plaintiffs. No substantial question of law arises.

Accordingly, the appeal is dismissed.

October 17, 2007 **(RAJESH BINDAL)**
renu **JUDGE**